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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/691,777

10/22/2003

Howard M. Lee

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Mark S. Peloquin
PELOQUIN, PLLC
Suite 4100
800 Fifth Avenue
Seattle, WA 98104-3100

05/23/2008

EXAMINER

BORISSOV, IGOR N

ART UNIT

PAPER NUMBER

3628

MAIL DATE

DELIVERY MODE

05/23/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/691,777	Applicant(s) LEE, HOWARD M.	
	Examiner Igor N. Borissov	Art Unit 3628	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01/22/2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-76 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-76 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

Amendment received on 01/22/2008 is acknowledged and entered. Claims 1, 5, 18, 20, 25, 29, 42, 43, 49, 50, 51, 54, 55, 64, 65, 69, and 70 have been amended. New claims 73, 74, 75, and 76 have been added. Claims 1-76 are currently pending in the application.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-76 are rejected under 35 U.S.C. 103(a) as being unpatentable over Eilbacher et al. (US 6,959,078) in view of Garrido (Southeast Asia; Call it a boom: Philippine call centers; Internet printout; 4 pages; 04/22/2003) and further in view of Jotkowitz (2003/0187725 A1).

Claims 1-72. Eilbacher et al. teaches a method, system and computer-readable medium having instruction embedded therein for causing a computer to implement said method for analyzing a call agent performance, comprising:

receiving a storable representation of a service call between an agent of a business and customers wherein the business is located in a first geographic area (C. 5, L. 10-17);

analyzing the storable representation, in a second geographic area (a quality management system 30 is located remotely from the customers and agents) to determine the service quality provided to a customer by the agent (C. 5, L. 10-17; C. 8, L. 7-37);

generating report data associated with the analyzing (C. 5, L. 15).

While Eilbacker et al. teaches that said quality management system 30 can be located anywhere in the world, Eilbacker et al. does not teach that said second geographic area is subject to a wage attenuator; and that wage attenuation is utilized to reduce a cost of analyzing the service call in the second geographic area relative to the cost of analyzing the call in the first geographic area. Also, Eilbacker et al. does not teach that said data in said report represents a calibrated determination of quality of service rendered by the agent to the customers.

Garrido discloses a practice of outsourcing various jobs in the countries, having lower wages. Specifically, India and Philippine were discussed as the countries where local citizens are paid much less than workers doing same job in the USA (See first and third pages).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Eilbacker et al. to include that said second geographic area is subject to a wage attenuator; and that wage attenuation is utilized to reduce a

cost of analyzing the service call in the second geographic area relative to the cost of analyzing the call in the first geographic area, as disclosed in Garrido, because it would advantageously allow to save funds and decrease the turnover rate for call centers, as specifically stated in Garrido.

Jotkowitz teaches a method and system for monitoring professional development, wherein the performance of workers (call agents) is monitored and a report including calibrated (ranked) results is provided (Figs. 3-7), wherein calibrating the results indicates necessary skill and training in doing so.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Eilbacker et al. and Garrido to include that said data in said report represents a calibrated determination of quality of service rendered by the agent to the customers, as disclosed in Jotkowitz, because it would advantageously allow to provide managers as well as agents a constant input as to performance, as specifically stated in Jotkowitz [0004].

Furthermore, Eilbacker et al. discloses notifying the agent of the results of the analysis, including displaying warning and congratulatory messages (C. 4, L. 37-44).

In response to applicant's argument that ***, the fact that applicant has recognized another advantage which would flow naturally from following the suggestion of the prior art cannot be the basis for patentability when the differences would otherwise be obvious. See *Ex parte Obiaya*, 227 USPQ 58, 60 (Bd. Pat. App. & Inter. 1985).

Response to Arguments

Applicant's arguments filed 01/22/2008 have been fully considered but they are not persuasive.

In response to applicant's argument that Eilbacher's reports do not contain Applicant's "calibrated measurement of quality of service rendered by the agent to the customers", it is noted that Jotkowitz was applied for this feature. Specifically, Jotkowitz teaches monitoring professional development, wherein the performance of workers (call agents) is monitored and a report including calibrated (ranked) results is provided (Figs. 3-7).

In response to applicant's argument that Eilbacher teaches away from Applicant's invention by allowing the data analyzer to automatically and dynamically change the recording rules, while the invention requires at least one of the agents services calls per day to be recorded for analyses, it is noted that Eilbacher's teaching does not preclude recording at required intervals. Moreover, ability to automatically and dynamically change the recording rules does not mean preventing said recording from happening. Furthermore, Eilbacher explicitly teaches that "the change in the active set of recording rules can be delayed until a particular time." (C. 10, L. 55-57).

The remaining applicant's arguments essentially repeat the arguments presented above; therefore, the responses presented by the examiner above are equally applicable to the remaining applicant's arguments.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Igor Borissov whose telephone number is 571-272-6801. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John W. Hayes can be reached on 571-272-6708. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status

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information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Igor N. Borissov/

Primary Examiner, Art Unit 3628

05/21/2008